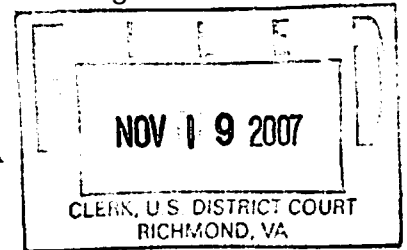


**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**



MICHAEL HENRY HEARN,

Plaintiff,

v.

Civil Action No. **3:07CV492**

CHIEF JUDGE GINSBURG, et al.,

Defendants.

MEMORANDUM OPINION

Plaintiff, a Mississippi inmate, submitted this action and requested leave to proceed *in forma pauperis*. A prisoner is precluded from proceeding *in forma pauperis*:

if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

28 U.S.C. § 1915(g). Plaintiff acknowledged that he has had more than three actions or appeals that were dismissed as frivolous, malicious, or for failure to state a claim upon which relief could be granted. (*In Forma Pauperis* Aff. ¶ 6 (Docket No. 7).) Plaintiff's current action, which challenges his current incarceration, but is otherwise largely incoherent, did not suggest that Plaintiff is in imminent danger of serious physical harm. Accordingly, by Memorandum Order entered on October 9, 2007, the Court denied Plaintiff's request to pay the full filing fee within eleven (11) days of the date of entry thereof.

Over eleven (11) days have elapsed since the entry of the October 9, 2007 Memorandum Order. Plaintiff has not paid the filing fee. Accordingly, the action will be DISMISSED WITHOUT PREJUDICE.

An appropriate Order shall issue.

<p style="text-align: center;"><u>/s/</u> Richard L. Williams United States District Judge</p>
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Date: NOV 21 2007
Richmond, Virginia